

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

**RETURNABLE: 02/09/2011**  
**TIME: 10:00 AM**

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In re:

YANIRA GAUDELLI,

CASE NO. 10-51381-JF  
CHAPTER 13

Debtor.

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**OBJECTION TO CONFIRMATION**

**TO: THE HONORABLE JEROME FELLER,  
UNITED STATES BANKRUPTCY JUDGE:**

The objection of Wells Fargo Bank, N.A. ("Wells Fargo"), by its attorneys, Berkman, Henoch, Peterson, Peddy, & Fenchel, P.C. respectfully sets forth and represents:

**I. BACKGROUND**

1. Wells Fargo is the holder of a Credit Line Mortgage, signed by Yanira Gaudelli ("Debtor") in the amount of \$50,000.00, dated June 29, 2007. To secure their obligation under the Mortgage, Debtor gave Wells Fargo a mortgage on the real property known as 240 Fitzpatrick Street, Hillside, New Jersey 07205 (the "Premises"). A copy of the Credit Line Mortgage is annexed hereto as Exhibit "A".

2. Pursuant to the terms of the Agreement, Debtor is required to tender mortgage payments to Wells Fargo.

3. On December 3, 2010, the Debtor filed a voluntary

petition for relief under Chapter 13 of the Bankruptcy Code under Bankruptcy Number 10-51381. Marianne DeRosa, Esq. is the duly appointed and qualified Trustee in this Chapter 13 case.

4. Wells Fargo filed a proof of claim dated January 4, 2011 in the amount of \$47,212.32, which includes \$1,012.47 in pre-petition arrears. A copy of the proof of claim is annexed hereto as Exhibit "B".

5. The Chapter 13 Plan filed in the above-captioned case states that the "Second Lien of Wells Fargo Home Mortgage for \$45,835.00 is subject to the directions of the Court." This language is clearly vague and fails to mention any pre-petition arrears owed to Wells Fargo who, as stated above, has a mortgage lien on the Debtor's residence. Therefore, the Chapter 13 plan is insufficient to cure the pre-petition arrears due Wells Fargo. A copy of the Debtors' plan is annexed hereto as Exhibit "C".

## **II. THE OBJECTION**

6. Based on the foregoing, Wells Fargo objects to confirmation of the above-captioned Debtor's Chapter 13 Plan because the proposed plan is clearly insufficient to cure the pre-petition arrears due Wells Fargo.

**WHEREFORE**, Wells Fargo objects to the confirmation of the Chapter 13 Plan submitted by the above named Debtor and respectfully requests that the Chapter 13 petition be dismissed together with such other relief as this Court deems just and proper.

Dated:      Garden City, New York  
                 February 1, 2011

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